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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/019,198	06/19/2002	Christopher Gregory Proud	9013-42	1487
20792	7590	10/14/2005	EXAMINER	
MYERS BIGEL SIBLEY & SAJOVEC			LIU, SAMUEL W	
PO BOX 37428			ART UNIT	
RALEIGH, NC 27627			PAPER NUMBER	

1653

DATE MAILED: 10/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/019,198

Applicant(s)

PROUD ET AL.

Examiner

Samuel W. Liu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 December 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 11-22 is/are pending in the application.
- 4a) Of the above claim(s) none is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 11-22 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |



### DETAILED ACTION

*According to that this application is a 371 of PCT/GB00/024 filed 6/21/200, for clarity reason, the restriction requirement for this application is restated as follows.*

Applicants' preliminary amendment filed 12/20/2001, which cancels claims 1-10 and add claims 11-22 has been entered. The following Office action is applicable to the pending claims 11-22.

#### ***Restriction/Election***

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

- I. Claims 11-15 and 16-18, drawn to a method of inducing programmed cell death comprising administering to a subject a peptide, are classified in class 514, subclass 2.
- II. Claim 19-22, drawn to a pharmaceutical composition comprising the peptide, are classified in class 530, subclasses 300, and class 424, subclass 278.1.
- III. Claim 15, drawn to a method of inducing programmed cell death comprising administering to a subject a polynucleotide encoding the peptide, are classified in class 514, subclass 44.

The invention listed as Groups I -III do not related to a single general invention concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

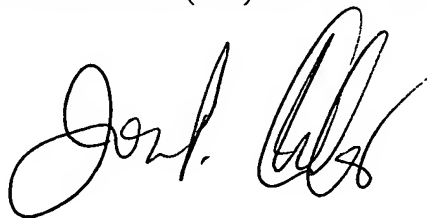
The instant claims 19-20 are obvious over Haghighat et al. (*J. Virol.* (1996) 70, 8444-8450). Prior to the effective filing date of the instant application, on Figure 3, Haghighat et al.

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teach a composition comprising polypeptide of eukaryotic initiation factor 4G (eIF4G) that comprises an eIF4E binding domain having amino acid residues 569-580 which read on the instant SEQ ID NO:1 (KKRYDREFLLGF) as is evidenced by Hentze et al. (US Pat. No. 6610508 B1). Also, on "Materials and Methods" section, Haghighat et al. teach a (pharmaceutical) composition comprising the eIF4G polypeptide and buffer A comprising Tris-HCl, KCl, dithiothreitol and glycerol, which buffer is considered to a pharmaceutically acceptable carrier. The above Haghighat et al. teaching is applied to the instant claims 19-20. Thus, the claimed composition does not constitute a special technical feature linking all claims, as defined by PCT Rule 13.2 and 37 CFR 1.475(a), as a single contribution over the art, and a holding of lack of unity is therefore proper.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Samuel Wei Liu, Ph.D. whose telephone number is (571) 272-0949. The examiner can normally be reached Monday-Friday 9:00 -5:30. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jon Weber, can be reached on (571) 272-0925. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-4242 for regular communication and (703) 305-3014 for the after final communication.



Samuel W. Liu, Ph.D.  
AU1653, Patent Examiner  
October 4, 2005